

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Final Official Action, the Examiner reiterates the rejection of claims 1-5 as being anticipated by Ogawa. Specifically, the Examiner rejects claims 1-5 under 35 U.S.C. § 102(b) as being anticipated by an English machine translation of Japanese Patent No. 2001070226 to Ogawa et al., (hereinafter "Ogawa"). In this regard, the Examiner again argues that the steps recited in claim 1 that are executed by the autoclave are disclosed in paragraphs [0034] to [0059] of Ogawa.

In response to the previous Office Action, the Applicant argued that Ogawa discloses a pre-vacuum step in a room, a sterilization process using high-pressure steam and returning the internal pressure in the room to the same pressure as the external pressure. Therefore, Ogawa could not disclose or suggest a plurality of depressurization steps as recited in claim 1 since the pressure during the last step of Ogawa gradually and continuously equalizes to atmospheric pressure.

In the "Response to Arguments" section of the Final Office Action (see page 4), the Examiner now argues that the Applicant's previous arguments are directed to process steps and have no patentable weight with regard to the apparatus recited in claims 1-5. In this regard, the Examiner further argues that the apparatus of Ogawa need only be *capable* of performing the claimed functional limitations. Therefore, the Examiner feels that the apparatus of Ogawa is capable of performing the features of the second depressurization process recited in claim 1.

In response, although the Applicant does not agree with the Examiner's arguments, in the interests of advancing prosecution, claim 1 has been amended so as to make

such functional language a positive limitation of the claim. Namely, claim 1 has been amended to recite a control unit that is configured to control the autoclave to carry out the recited functional steps.

The amendment to claim 1 is fully supported in the original disclosure. Thus, no new matter has been introduced into the disclosure by way of the present amendment to independent claim 1. Further, the amendment to claim 1 is at least directed to the invention elected in the response filed on April 12, 2007 (e.g., Group I, drawn to a medical equipment autoclaving system).

With regard to the rejection of claims 1-5 under 35 U.S.C. § 102(b), a medical equipment autoclaving system having the features discussed above and as recited in independent claim 1, is nowhere disclosed in Ogawa. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 1 is not anticipated by Ogawa. Accordingly, independent claim 1 patentably distinguishes over Ogawa and is allowable. Claims 2-5 being dependent upon claim 1 are thus at least allowable therewith.

Lastly, the Applicant again respectfully submits that at least claim 2 patentably distinguishes over Ogawa independently of its base claim for at least the same reasons as set forth in the response to the previous Official Action. Namely, the Applicants respectfully submits that Ogawa does not disclose or suggest the second depressurization process including a plurality of depressurizing steps and a plurality of pressurizing steps, and the

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

pressure attained at at least one of the depressurizing steps is lower than the pressure attained at other depressurizing step preceding the depressurizing step.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,

Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm